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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR 14 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Pennsylvania Public Utility Commission)	NSD File No. L-99-101
Petition for Delegation of Additional Authority to)	
Implement Number Conservation Measures)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of 1996)	

**COMMENTS
OF THE
UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTA)¹ hereby files its comments on the petition filed by the Pennsylvania Public Utility Commission (Pennsylvania) for delegation of additional authority to implement various number conservation methods in the above-captioned proceeding.² In its petition, Pennsylvania seeks delegated authority to: (1) implement thousand block number pooling; (2) establish utilization thresholds at the NXX and/or thousand block levels; (3) implement NXX code sharing; (4) reclaim unused and reserved NXX codes; (5) require the return of unused or underutilized portions of NXX codes; (6) revise rationing procedures; (7) order all LNP-compliant carriers to implement both unassigned number porting (UNP) and individual telephone number (ITN) pooling, and order carriers to expand deployment

¹ The United States Telecom Association, formerly the United States Telephone Association, is the nation's oldest trade organization for the local exchange carrier industry. USTA represents more than 1200 telecommunications companies worldwide that provide a full array of voice, data and video services over wireline and wireless networks. USTA members support the concept of universal service and are leaders in the deployment of advanced telecommunications capabilities to American and international markets.

² Public Notice, DA 00-281, released February 14, 2000 (Public Notice).

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of local number portability (LNP); and (8) implement service-specific and technology-specific NPA overlays.

At least twenty other states have filed requests with the Commission since February 1999 seeking similar individual state relief to deal with number shortages.³ The Commission has now granted portions of ten of the states' requests.⁴ As USTA has cautioned, other states have jumped on the bandwagon with "me too" applications, thereby creating a burden on the Commission's processes and the industry's resources. USTA believes that the industry's and the nation's first priority in these matters must be to develop and implement a nationwide, uniform system of numbering. The Commission has consistently stated that it intends to develop a nationwide, uniform system of numbering and that such a system is "essential to the efficient

³ New York Department of Public Service Petition, NSD File No. L-99-21 (New York Petition); Massachusetts Department of Telecommunications and Energy Petition, NSD File No. L-99-19 (Massachusetts Petition); Maine Public Utilities Commission Petition, NSD File No. L-99-27 (Maine Petition); Florida Public Service Commission Petition, NSD File No. 99-33 (Florida Petition); Californian Public Utilities Commission and People of the State of California Petition, NSD File No. 98-136 (California Petition); Texas Public Utility Commission Petition, NSD File No. 99-55 (Texas Petition); Connecticut Department of Public Utility Control Petition, NSD File No. 99-62 (Connecticut Petition); Wisconsin Public Service Commission Petition, NSD File No. L-99-64 (Wisconsin Petition); New Hampshire Public Utilities Commission Petition, NSD File No. L-99-71 (New Hampshire Petition); the Public Utilities Commission of Ohio Petition, NSD File No. L-99-74 (Ohio Petition); Indiana Utility Regulatory Commission Petition, NSD File No. L-99-82 (Indiana Petition); Nebraska Public Service Commission Petition, NSD File No. L-99-83 (Nebraska Petition); Utah Public Service Commission Petition, NSD File No. L-99-89 (Utah Petition); Missouri Public Service Commission Petition, NSD File No. L-99-90 (Missouri Petition); Iowa Utilities Board Petition, NSD File No. L-99-96 (Iowa Petition); Tennessee Regulatory Authority Petition, NSD File No. L-99-94 (Tennessee Petition); Virginia State Corporation Commission Petition, NSD File No. L-99-95 (Virginia Petition); Georgia Public Service Commission Petition, NSD File No. L-99-98 (Georgia Petition); North Carolina Utilities Commission Petition, NSD File No. 99-97 (North Carolina Petition); and Arizona Corporation Commission Petition, NSD File No. 99-100 (Arizona Petition).

⁴ Order on New York Petition, FCC 99-247, released September 15, 1999 (New York Order); Order on Massachusetts Petition, FCC 99-246, released September 15, 1999 (Massachusetts Order); Order on Florida Petition, FCC 99-249, released September 15, 1999 (Florida Order); Order on California Petition, FCC 99-248, released September 15, 1999 (California Order); Order on Maine Petition, FCC 99-260, released September 28, 1999 (Maine Order); Order on Connecticut Petition, DA 99-2633, released November 30, 1999 (Connecticut Order); Order on New Hampshire Petition, DA 99-2634, released November 30, 1999 (New Hampshire Order); Order on Ohio Petition, DA 99-2635, released November 30, 1999 (Ohio Order); Order on Texas Petition, DA 99-2636, released November 30, 1999 (Texas Order); and Order on Wisconsin Petition, DA 99-2637, released November 30, 1999 (Wisconsin Order).

delivery of telecommunications services in the United States.”⁵ The Commission has further recognized that the industry, the Commission, and the states should work together to develop national methods to conserve and promote efficient use of numbers, but that those attempts “cannot be made on a piecemeal basis without jeopardizing telecommunications services throughout the country.”⁶

USTA believes that the Commission should adhere to its policy that orderly national numbering conservation and administration measures are essential to the optimization of the North American Numbering Plan (NANP). The Commission must not further yield to the requests by individual states to fragment and decentralize number administration. As USTA has repeatedly stated, the effects would be disastrous to number planning and conservation in this country. Such action would result in a significant loss of effectiveness of the national program and its numbering conservation and administrative policies, and the diversion of resources will delay development of effective national measures. The Commission needs to focus on these national programs and the development of orderly national measures, rather than to devote so much of its own and the industry’s resources to these individual state requests that will undermine the vital national scheme.

USTA has filed comments on each of the petitions, opposing the states’ requests for additional authority that would jeopardize the industry processes underway for comprehensive nationwide number conservation. USTA has also addressed the issue of the states’ authority to implement conservation measures on an individual basis in its comments and reply comments in response to the Commission’s Notice of Proposed Rulemaking in CC Docket No. 99-200,

⁵ Memorandum Opinion and Order and Order on Reconsideration, *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*. NSD File No. L-97-42, 13 FCC Rcd 19009 at ¶ 21 (1998).

⁶ *Id.*

Numbering Resource Optimization (Notice).⁷ Notwithstanding the Commission's partial grant of some of the states' requests, USTA continues to oppose the grant of additional authority to individual states in contravention of the nationwide number conservation policies and procedures. To the extent that Pennsylvania seeks additional authority that would frustrate the national number conservation plan, USTA opposes the Pennsylvania request for the reasons articulated in its earlier pleadings. Rather than repeat the reasons stated therein, USTA hereby incorporates by reference all of its pleadings filed in the proceedings listed in footnotes 3 and 7, *supra*.

USTA provides the following comments on some of Pennsylvania's specific requests for authority in light of the Commission's recent actions on other states' petitions.

1. Thousand Block Number Pooling

Pennsylvania seeks authority to implement mandatory thousand block number pooling. Number pooling has been addressed by USTA in its previous comments filed on the state petitions and the Commission's Notice of Proposed Rulemaking in CC Docket No. 99-200, which could be repeated here but are incorporated by reference. However, USTA believes that a careful analysis needs to be conducted which would show if the potential benefits of thousand block pooling are great enough to justify its implementation.

Although Pennsylvania does not specify whether it would implement thousand block pooling trials using the software version 1.4 or version 3.0, a broad range of carriers, including ILECS, AT&T and MCI WorldCom, have objected to additional deployment of version 1.4. The Commission should investigate the problems connected with this version and should not, in the meantime, delegate any authority that would permit any state commission to require its further deployment.

⁷ FCC 99-122, released June 2, 1999.

We must reiterate that the industry is working energetically to conclude development of the details of thousand block pooling that is supported by version 3.0 of the NPAC software. Pooling based on version 1.4 in Illinois has been a valuable learning experience for the industry, but it also has its problems, one of which is that it cannot support efficient data representation (EDR). The industry is not looking to this form of pooling for long term deployment. USTA also believes that the notion that version 1.4 can be deployed quickly is incorrect. It is essential that all industry energy and activity be focused on the form of pooling to which the industry has committed for the future. For these reasons, we urge the Commission to conclude that any pooling deployment ordered pursuant to Commission authority be compliant with version 3.0.

2. Utilization Thresholds

Pennsylvania seeks authority to establish minimum fill rates at either the NXX or thousand block level. USTA believes that its previous comments in this matter are still valid.⁸ USTA supports maintaining the greatest number of clean thousand blocks possible through assignments on a “thousand block by thousand block” basis, but also asserts that there is no need to order sequential thousand block assignments. Many states have excellent guidelines in place that accomplish the desired result, which should be used as a guide to develop national guidelines for a structure of assignments on a thousand block by thousand block level. USTA believes those states’ requirements are effective and supports those requirements as a basis for achieving the desired results. There is a need for some flexibility in the assignment process, especially for smaller LECs, in meeting certain customer needs.⁹ USTA presumes that service providers are voluntarily complying with the state guidelines. USTA recommends that the Commission affirm that federal requirements are necessary.

⁸ See USTA Comments in CC Docket No. 99-200 at 10.

3. Reclamation of Unused NXX Codes

Pennsylvania seeks authority to reclaim unused and reserved NXX codes and portions of codes. In response to a complaint in the Wisconsin Petition, USTA maintained that the Commission should clarify the responsibility and authority of NANPA.¹⁰ We also observe that California, New York, Florida, Massachusetts, Maine, Ohio, and other states have each requested similar relief. The Commission has uniformly responded to those requests and we believe that the form of the Commission's response is very close to what is required for a broader solution to these problems. In each case, the Commission stated, "Therefore, we grant authority to the [state] Commission...to direct the NANPA to reclaim NXXs that the [state] Commission determines have not been activated in a timely manner....We further direct the NANPA to abide by the [state] Commission's determination to reclaim an NXX code if the [state] Commission is satisfied that the code holder has not activated the code within the time specified by the CO Code Assignment Guidelines."¹¹

In this delegation, the Commission has not authorized the state commissions to reclaim NXX codes themselves, but to direct the NANPA to reclaim codes. In the Commission's prescription, it is still the NANPA that reclaims the codes. USTA believes that if, in the first instance, the NANPA was confident of its authority and obligations, it would, on its own, reclaim codes that NANPA knew were being used in any manner inconsistent with the guidelines. If those conditions were clear, and the state commission were to advise the NANPA of misuse of codes and provide support for that conclusion, we believe NANPA would reclaim

⁹ To meet customer requirements, number assignments may require going out of sequence, which has no effect on exhaust.

¹⁰ USTA Comments in Docket No. 99-200 at 6, and Reply Comments at 12, USTA Comments on the Wisconsin Petition at 4-5.

¹¹ California Order at 16, New York Order at 11, Florida Order at 22, Massachusetts Order at 11, Maine Order at 9, and Ohio Order at 7.

the codes. If the Commission were to validate the authority and responsibility of the NANPA to act in accordance with provisions in the guidelines and require that the NANPA must consider evidence provided by regulatory commissions when making such decisions, no additional state authority would be necessary.

As it first did in its comments on the Ohio Petition,¹² USTA recommends that the Commission affirm the authority and responsibility of the NANPA to act in accordance with provisions in the industry guidelines and that NANPA is to consider information provided by state commissions in reaching its conclusions.

4. Rationing Measures

Pennsylvania requests authority to maintain rationing measures for six months after implementation of relief plans. USTA believes that this proposal must be rejected, if for no other reason than for its imprecision and lack of specificity. If Pennsylvania's proposed relief plan can be implemented quickly, numbers in the new NPA are assigned only where needed.¹³ Without additional specificity, the Commission must reject this proposal. The authority requested is so vague that it may not observe the concerns stated by the Commission in its authority granted to New York.¹⁴

¹² USTA Comments on the Ohio Petition at 5.

¹³ One of the advantages of an overlay plan that is often overlooked in the impassioned rhetoric concerning the "anti-competitive effects" of overlays is that numbers from the new NPA are only assigned where they are needed. If a split were to be made, in the area in which the new code is to be assigned, everyone must change numbers. In an overlay, consumers outside the area where exhaust is a problem need only be concerned with dialing a new NPA when there is a need to reach subscribers with the new numbers. Numbers with the new NPA are assigned only in the area in which exhaust is a problem. USTA sees that as a powerful argument in favor of overlays.

¹⁴ New York Order at 15.

5. Unassigned Number Porting and Individual Telephone Number Pooling

The Commission denied requests of other states to implement UNP and/or ITN pooling on the basis that they are in too early stages of development to order implementation.¹⁵ The Commission recognized the specific concerns of the impact on carriers' ability to control their own number inventories, the difficulty in forecasting future numbering needs, and the impact on carriers' switching systems, among others. For these reasons, the Commission should likewise deny Pennsylvania's requests to engage in UNP and ITN pooling.

6. Further Deployment of Local Number Portability

Pennsylvania requests that the Commission grant it additional authority to order carriers to expand deployment of LNP in order to "more effectively utilize" UNP and ITN pooling. Pennsylvania would have the Commission unilaterally overturn its carefully crafted nationwide implementation of LNP on the transparent and thinly justified basis that UNP and ITN pooling are "dependent on the ability of carriers to be LNP-compliant."

USTA adamantly opposes this request. In the First Report and Order and Further Notice of Proposed Rulemaking, *Telephone Number Portability*, (First Report and Order),¹⁶ the Commission adopted a phased implementation of number portability that it found to be in the public interest and supported by the record.¹⁷ This determination took into account the dependency of numbering resources on LNP capability.¹⁸ The Commission has upheld its determination in the context of other states' requests for authority to require carriers to obtain LNP capability so they could participate in thousand block pooling trials.¹⁹ Specifically, the

¹⁵ New York Order at 17, California Order at 11-12, Florida Order at 18, Massachusetts Order at 18-19, and Maine Order at 11-12.

¹⁶ CC Docket No. 95-116, 11 FCC Rcd 8352 (1996).

¹⁷ *Id.* at 8395.

¹⁸ *Id.* at 8369.

¹⁹ *See, e.g.*, Ohio Order at 13.

Commission stated that the issues related to non-LNP capable carriers' participation in pooling are best addressed in the Number Resource Optimization proceeding.

For Pennsylvania to come now to the Commission and seek to overturn this nationwide plan would wreak havoc on the carriers, particularly the rural telephone companies, for no justifiable reason. If there is competition in an area, the competitive carrier will have requested LNP. If LNP has not been requested, there is no need to deploy pooling in the rate centers served by switches on which no LNP request has been made. The Commission has declined to allow other states to implement UNP and ITN pooling and should not deviate from that determination here, particularly by allowing Pennsylvania to impose additional LNP-capability requirements on carriers not otherwise required to implement the capability.

7. Service-specific and Technology-specific Overlays

Pennsylvania seeks authority to implement service-specific and technology-specific overlays. USTA has consistently opposed the use of service-specific and technology-specific overlays absent evidence showing that they would advance number conservation.²⁰ USTA maintains its position. In its Ohio Order,²¹ the Commission stated that it would address pending petitions for rulemaking and waiver of the prohibition against such overlays in the broader context of CC Docket No. 99-200 and declined to reach that request in the Ohio Petition at that time. USTA believes that the Commission's stated course of action in Ohio should also apply to Pennsylvania's request and that Pennsylvania should not be granted any such authority at this time.

²⁰ See USTA Reply Comments in CC Docket No. 99-200 at 17.

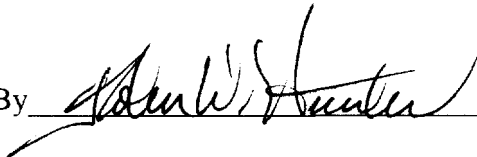
²¹ Ohio Order at 16.

Conclusion

USTA urges the Commission to deny Pennsylvania's request for the reasons stated above and those in its previous comments and reply comments in CC Docket No. 99-200 and in its previous comments and reply comments to similar petitions by other states.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

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March 14, 2000

CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on March 14, 2000, Comments Of The United States Telecom Association was either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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